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JAN 18 2007

Atty Dkt. No.: 10031000-1  
Appl. No.: 10/788,547

**REMARKS**

In view of the following remarks, the Examiner is requested to allow claims 1-15, the only claims pending and under examination in this application.

Claim 1 has been amended to recite "an addressable array of two or more ligands" and "to detect any binding complex on said array". Claims 2, 3, 7, 10 and 12 have been amended to recite "addressable array" or "addressable arrays". Claim 13 has been amended to recite "said reading". Support for these amendments can be found in the specification, particularly in paragraph [0026], lines 1-8 and paragraph [0063], lines 10-11.

As no new matter has been added by way of these amendments, entry thereof by the Examiner is respectfully requested.

***Interview Summary***

The Applicants thank the Examiner for the telephonic interview on January 16, 2007. The Examiner indicated that amending Claim 1 to recite "an addressable array of two or more ligands" and "reading said addressable array to detect any binding complex on said array" sufficiently distinguishes the claimed invention of Claim 1 from the cited references. Also, the Examiner agreed that the pending claims as amended herein or as previously presented conform with the requirements of 35 U.S.C. § 112, second paragraph.

***Claim Rejections - 35 U.S.C. § 112, second paragraph***

Claim 1 has been rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention.

The Applicants respectfully disagree with the Examiner but solely in the interest of expediting the prosecution of this application, the Applicants contend that the claim as amended has fully addressed the points raised by the Examiner. Amended Claim 1 recites "said addressable array". Accordingly, the Examiner is respectfully requested to withdraw this rejection.

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Claims 9 and 11 have been rejected under 35 U.S.C. § 112, second paragraph, as being allegedly indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention.

Claim 9 recites "providing a kit comprising said biopolymer array". Accordingly, the Examiner is respectfully requested to withdraw this rejection.

Claims 13 and 15 have been rejected under 35 U.S.C. § 112, second paragraph, as being allegedly indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention.

The Applicants respectfully disagree with the Examiner but solely in the interest of expediting the prosecution of this application, the Applicants contend that the claim as amended has fully addressed the points raised by the Examiner. Amended Claim 13 recites "further comprising transmitting results of said reading" and Claim 15 recites "further comprising receiving data representing a result of said reading". Accordingly, the Examiner is respectfully requested to withdraw this rejection.

As Claims 16 and 17 have been canceled, the rejection of these claims is moot. Accordingly, the Examiner is respectfully requested to withdraw this rejection.

#### ***Claim Rejections - 35 U.S.C. § 102***

Claims 1, 4, 6, 7, 10, 13 and 15-17 have been rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by Lewis et al. (U.S. Application Pub. No. 2001/0041366).

According to the MPEP, a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. The identical invention must be shown in as complete detail as is contained in the claim. See MPEP 2131.

The rejected claims contain the elements "an addressable array of two or more ligands" and "reading said addressable array to detect any binding complex on said array".

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Lewis et al. disclose a breath collector comprising a sample chamber. As such, Lewis et al. contains neither "an addressable array of two or more ligands" nor does it "read an addressable array to detect any binding complex on said array", as required by the rejected claims. Accordingly, Lewis et al. fail to describe any of these elements and therefore cannot anticipate the claims. As Claims 16 and 17 are canceled, the rejection of these claims is moot.

Since Lewis et al. do not anticipate Claims 1, 4, 6, 7, 10, 13 and 15, the Applicants respectfully request the Examiner to withdraw this rejection.

#### ***Claim Rejections - 35 U.S.C. § 103***

Claims 2, 3 and 12 have been rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Lewis et al. in view of Sunshine et al. (U.S. Patent No. 6,085,576).

According to the MPEP § 706.02 (j), to establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations.

Claims 2, 3 and 12 depend from Claim 1 and thus contain the elements "an addressable array of two or more ligands" and "reading said addressable array to detect any binding complex on said array". For the reasons provided earlier, Lewis et al. do not teach these elements. In addition, Lewis et al. do not suggest such an element because Lewis describes a breath analyzer, which is a completely different type of device. As Sunshine was cited solely for the element of loading a plurality of arrays, Sunshine fails to make up the deficiency in Lewis.

As such, Lewis et al. in view of Sunshine et al. do not render Claims 2, 3 and 12 obvious and this rejection may be withdrawn.

Claim 5 has been rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Lewis et al.

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Claim 5 depends from Claim 1 and thus contains the elements "an addressable array of two or more ligands" and "reading said addressable array to detect any binding complex on said array". For the reasons provided earlier, Lewis et al. do not teach or suggest these elements.

Since not all of the claim elements are taught or suggested, Lewis et al. do not render Claim 5 obvious. Accordingly, the Applicants respectfully request the Examiner to withdraw this rejection.

Claim 8 has been rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Lewis et al. in view of Sunshine et al.

Claim 8 depends from Claim 1 and thus contains the elements "an addressable array of two or more ligands" and "reading said addressable array to detect any binding complex on said array". For the reasons provided earlier, Lewis et al. do not teach or suggest these elements. As Sunshine was cited solely for the element of nucleic acids, Sunshine fails to make up the deficiency in Lewis.

As such, Lewis et al. in view of Sunshine et al. do not render Claim 8 obvious and this rejection may be withdrawn.

Claims 9 and 11 have been rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Lewis et al. in view of Matzinger et al. (U.S. Patent No. 7,118,916).

Claims 9 and 11 depend from Claim 1 and thus contain the elements "an addressable array of two or more ligands" and "reading said addressable array to detect any binding complex on said array". For the reasons provided earlier, Lewis et al. do not teach or suggest these elements. As Matzinger et al. was cited solely for the element of a kit, Matzinger fails to make up the deficiency in Lewis.

Since not all of the claim elements are taught or suggested, Lewis et al. in view of Matzinger et al. do not render Claims 9 and 11 obvious. Accordingly, the Applicants respectfully request the Examiner to withdraw this rejection.

Claim 14 has been rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Lewis et al. in view of Scott (U.S. Patent No. 6,266,995).

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Claim 14 depends from Claim 1 and thus contains the elements "an addressable array of two or more ligands" and "reading said addressable array to detect any binding complex on said array". For the reasons provided earlier, Lewis et al. do not teach or suggest these elements. As Scott was cited solely for the transmitting element, Scott fails to make up the deficiency of Lewis.

As such, the combined teaching of Lewis et al. in view of Scott do not render Claim 14 obvious. Accordingly, the Applicants respectfully request the Examiner to withdraw this rejection.

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**CONCLUSION**

In view of the amendments and remarks above, Applicant(s) respectfully submit(s) that all of the claims are in condition for allowance, which action is requested. If the Examiner finds that a telephone conference would expedite the prosecution of this application, please telephone John Brady at (408) 553-3584.

The Commissioner is hereby authorized to charge any additional fees under 37 C.F.R. §§ 1.16 and 1.17 which may be required by this paper, or to credit any overpayment, to Deposit Account No. 50-1078, order number 10031000-1.

Respectfully submitted,

Date: January 18, 2007

By: 

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